

Defendant United States of America (the “United States” or “Defendant”) and Plaintiff Mandan, Hidatsa, and Arikara Nation (the “Nation” or “Plaintiff,” and, together with the United States, the “Parties”) jointly move, pursuant to Rule 7 of the Rules of the United States Court of Federal Claims, to stay this action pending the resolution of Count I of a related case pending in the United States District Court for the District of Columbia, *Mandan, Hidatsa, and Arikara Nation v. Department of the Interior, et al.*, 1:20-cv-1918 (D.D.C.) (the “DDC Action”).

1. Plaintiff filed this action on July 15, 2010, and this Court served the United States on the same day. *See* Compl., ECF No. 1; Minute Entry Accompanying ECF No. 1. The United States' responsive pleading is due September 14, 2020. *Id.*

2. Plaintiff’s complaint in this action “seeks compensation for the United States’ breaches of its fiduciary duty to protect and preserve the MHA Nation’s trust land – the minerals beneath the Missouri River within the Fort Berthold Reservation (‘Reservation’).” Compl., ECF No. 1, at ¶ 1. It is the United States’ position that the Tribe does not own the property at issue.

3. On July 16, 2020, Plaintiff filed the DDC Action seeking injunctive and declaratory relief against the United States Department of the Interior (the “Interior”) as well as two individual Interior officials (collectively, the “DDC Defendants”). DDC Action Compl., ECF No. 1, 1:20-cv-1918 (D.D.C.). On the same day, the Tribes filed a motion for preliminary injunction seeking to prevent the DDC Defendants from taking any steps to implement a recent opinion issued by the Solicitor of the Interior. DDC Action Motion for Preliminary Injunction, ECF No. 2, 1:20-cv-1918 (D.D.C.). This opinion by the Solicitor is central to the claims and defenses in this action.

4. The District Court set a schedule whereby the Parties will concurrently brief, on an expedited basis, the motion for preliminary injunction and cross-motions for summary judgment as to Count I of the DDC Action. Order, ECF No. 7, at 2, 1:20-cv-1918 (D.D.C.). This consolidated briefing will conclude Thursday, October 15, 2020. *See id.*; Opinion and Order, ECF No. 15, at 7, 1:20-cv-1918 (D.D.C.).

5. The Parties agree that resolution of Count I of the DDC Action will have a substantial impact on the Parties’ claims and defenses in this action.

6. To avoid duplicative litigation, to preserve the Parties’ and judicial resources, to avoid potentially inconsistent rulings, to allow these proceedings to be clarified and potentially streamlined following a ruling on Count I in the DDC Action, and because the District Court has expedited briefing on the issue, the Parties respectfully request this Court stay this case pending an order from the District Court adjudicating Count I in the DDC Action. The Parties agree that such a stay will not prejudice their interests.

7. The Parties stipulate and agree that following entry of an order by the District Court finally adjudicating Count I of the DDC Action, the Parties will meet and confer, and,

within 21 days of the entry of such an order by the District Court, the Parties will file a joint status report setting out a joint proposal, or, if they are unable to agree, separate proposals, for any further proceedings in this case.

Respectfully submitted this 8th day of September, 2020.

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